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08 DEC 1975

THE ROLE OF THE DCI

(Talking paper for use in closed session with the Senate Select Committee on Thursday, 11 December 1975.)

INTRODUCTION

1. Role of the DCI is difficult to describe in the abstract since it depends on a variety of factors, of which the authority actually assigned him by law or directives is only one.

2. Other important factors include:

a. The world situation, and the type of problems which are most critical to the United States.

b. The expectations of the President, and how the President approaches his decision making.

c. The personality and character of the DCI himself.

3. A brief look at the primary focus of individual DCI's suggests what each of them considered most important--and indicates a wide diversity in their approaches to the job:

a. The first DCIs, through the period of General Smith, focused almost entirely on organizational matters, establishing the CIA and defining its role.

b. Allan Dulles devoted most of his attention to covert action, and in his period this loomed large in CIA resource use.

c. Mr. McCone was primarily interested in improving the quality of estimates, and in initiating several of the major technical collection systems on which the Community now puts so much dependence.

d. Admiral Raborn was in the job hardly long enough to become a major influence in any particular area.

e. Mr. Helms divided his attention primarily between service to the President and supervision of overseas operations of the Agency.

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f. Dr. Schlesinger was DCI for only a very brief period, and he put his major attention during those months to matters of restructuring and reorienting CIA.

g. My tour has been devoted largely to serving as spokesman for the Intelligence Community and strengthening Community aspects of the U.S. intelligence effort. I have paid less attention to details of Agency operation than most of my predecessors.

4. It was only shortly before Dr. Schlesinger and I came into the office that the President issued his landmark directive of 5 November 1971 on "Organization and Management of the U.S. Foreign Intelligence Community."

a. I should stress that this document, and NSCID No. 1 which put the President's Memorandum in directive form, added to the responsibilities of the DCI, but did nothing to increase his authority. That authority, then and today, extends only to the CIA.

b. It was this directive which, for the first time, charged the DCI to prepare for the President an annual budget recommendation for the entire Intelligence Community, including tactical intelligence.

c. The directive also charged the DCI to:

(1) Plan and review all intelligence activities and the allocation of all intelligence resources.

(2) Produce the national intelligence required by the President and other national consumers.

(3) Chair and staff all Intelligence Community advisory boards or committees.

(4) Reconcile intelligence requirements and priorities within budgetary constraints.

d. The President put special emphasis on the need for:

(1) Assuring authoritative and responsible leadership for the Community as a whole.

(2) Continuing review of the U.S. intelligence effort with respect to national requirements.

(3) More efficient use of resources by the Community in the collection of intelligence information.

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(4) Review and revision of the assignment of intelligence functions within the Community to eliminate inefficient, unnecessary or outmoded activities.

(5) Improvement in the quality, scope and timeliness of the Community's product.

(6) Use of intelligence to enhance the formulation of the foreign, military and economic policies of the U.S. Government, and the planning for and conduct of military operations by U.S. forces.

5. On the basis of my experience in seeking to execute this directive, I see the DCI role as involving three basic ingredients.

6. First, he must assure that high quality intelligence is provided to the President and to policy and decision-making levels of the Government.

a. This involves a variety of tasks.

(1) The DCI must seek to assure that the Intelligence Community has adequate resources to collect, process, and produce the intelligence needed.

(2) He must assure there are mechanisms for liaison with consumers to determine what is needed, and that sound analysis is applied to the development of estimates.

(a) To this end, I have put great reliance on my National Intelligence Officers and the United States Intelligence Board.

(b) I also have used my Intelligence Community Staff to review and evaluate the performance of the Community, particularly in crisis situations.

(3) The DCI must provide guidance to the Intelligence Community, both as to current needs and as the basis for planning.

(a) To accomplish this I have used a number of guidance documents.

1. Key Intelligence Questions are published annually to identify matters of particular importance, and we have developed procedures to evaluate the manner in which the agencies of the Community respond to the KIQs.

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2. "Substantive objectives" are included in my annual Objectives for the Intelligence Community.

3. Guidance for the coming five years is provided in my annually issued Perspectives for Intelligence.

4. Supplementing the Perspectives we annually prepare a directive (DCID 1/2) which provides specific listing of the priority which applies to each of more than 100 topics of intelligence interest. This measure of expected importance to U.S. interests is assigned by topic to each country of the world to which some intelligence importance attaches. The guidance is applicable for planning purposes over the next five years.

(b) My National Intelligence Officers and my Intelligence Community Staff are directly involved in the development of these guidance documents.

7. The second major DCI function is what is often referred to as "management" of the Intelligence Community, but can more aptly be called leadership of the Community.

a. The leadership role of the DCI depends in large measure on the guidance which he issues and his use of coordination mechanisms such as the United States Intelligence Board and the Intelligence Resources Advisory Committee.

(1) This is because he has no authority actually to manage any elements of the Community except the CIA and the two small offices which directly support him: The National Intelligence Officers and the Intelligence Community Staff.

b. The DCI has two primary vehicles for his involvement in Community management decisions.

(1) The first of these applies to the Community as a whole. It is his National Foreign Intelligence Program Recommendation which he submits to the President each December through the OMB.

(a) In preparation for this document, the DCI's Intelligence Community Staff participates in detailed budget reviews with the major organizations of the Community.

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(b) Major issues are raised for discussion before the Intelligence Resources Advisory Committee, which the DCI chairs.

(c) By the time the program recommendation is ready to go to the President, the DCI is quite aware of the management issues which are engaging the components of the Intelligence Community. His guidance during reviews, and his recommendations set forth in the program recommendation document are a major element of the DCI's Community management role.

(2) The second management vehicle available to the DCI is a specialized one stemming from the fact that he is chairman of the two-man Executive Committee (or EXCOM) for the National Reconnaissance Program.

(a) The second member is the Assistant Secretary of Defense for Intelligence.

(b) This EXCOM arrangement is based on a ten-year old agreement between the Secretary of Defense and the DCI, and stems from the fact that both the CIA and the Defense Department are deeply involved in the space satellite business.

(c) The EXCOM is responsible for decisions on the program and budget of the National Reconnaissance Program.

(d) No comparable EXCOM arrangement exists for the other major collection programs (signals intelligence and human source activities).

c. Despite existence of the NRO EXCOM and the National Foreign Intelligence Program Recommendation, I feel it necessary to stress that the DCI is not the manager of the national intelligence effort.

d. In an overall sense, he is its leader, its spokesman, its primary coordinator, but not its manager.

8. The third major DCI responsibility stems from his position as operating head of the Central Intelligence Agency.

a. Because of competing demands on my time, particularly Community matters and the requirement that I serve as spokesman for the Community and advisor of the NSC, I have left the detailed management of the Agency largely to my Deputy Directors.

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b. My role has been primarily one of issuing directives and utilizing a system of management by objective to measure accomplishments and to assess responsiveness of the Agency to its responsibilities.

(1) I have been very fortunate in having top quality deputies in whom I could put great reliance.

DESCRIPTION OF OPTIONS

9. Looking to the future, I recognize that there are a considerable number of options applicable to definition of the role of the senior U.S. foreign intelligence officer--whether or not he is termed the DCI.

10. In my view, determining which option is best requires decisions in three areas.

11. First, what does the President expect of his senior intelligence officer and how does he intend to use him?

a. Since this is a matter which each President must decide, I will not explore it in any length.

b. Suffice it to say the senior intelligence officer can be:

(1) Someone who is a Presidential confidant, or, at the other extreme, might see him very seldom.

(2) An operating manager of the entire Community, or a coordinator, or even a first-among-equals.

12. Second, what authority is the senior intelligence officer to have with respect to resource matters?

a. Is he to be responsible for actually approving the budgets of component organizations of the Intelligence Community in detail?

b. Or is he to be charged only with recommending an overall budget figure without specific approval authority?

c. Or is he to have no Community budgetary role at all?

13. And, third, is the senior intelligence officer to continue as the operating head of the CIA or be separated from the Agency?

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14. Determination as to details of the role of the senior intelligence officer can be worked out once decisions have been reached as to the second and third of the factors I have mentioned--budgetary authority and the relation to management of CIA.

15. With these factors in mind, I visualize four major options for determining the role of the DCI (or whatever title is given to the senior intelligence officer) and for working out the kind of Intelligence Community structure which will enable that role to be fulfilled.

16. I would like to sketch these four options briefly, and indicate the PROs and CONs that apply to each.

THE FIRST OPTION

17. The senior foreign intelligence officer would be a member both of the White House Staff and of the National Security Council. He would have supervisory and direct management authority over the major national intelligence organizations--CIA, NSA and NRO. The CIA would have a separate director. The NSA and NRO would each become a statutory executive agency. The senior intelligence officer would have responsibility for production of national estimates and for the warning function, and would have a staff for these purposes. Departmental and agency intelligence would be a responsibility of the departments and agency (CIA). Community coordination mechanisms would be as desired by the senior intelligence officer.

a. PROs

(1) The President and the Congress would have one man upon whom to charge responsibility for effectiveness of the U.S. national intelligence effort--and that man would have the tools to carry out the job.

(2) The national intelligence effort would be highly centralized through direct management controls from the top, embracing CIA, NSA and NRO.

(3) Responsibility for substantive national intelligence of direct interest to the President and the NSC would be located in the White House Staff.

(4) The Intelligence Community would have a senior spokesman with greater access to the President than the DCI now has.

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(5) Separation of the senior intelligence officer from CIA would eliminate any charge of favoritism from other agencies.

(6) Clear delineation of organizational functions and responsibilities would be enhanced.

b. CONs

(1) Such extreme concentration of intelligence authority in a single person would pose serious problems if that person is politically motivated and more interested in responding to policymaker desires than in concentrating on unbiased intelligence.

(2) The Department of Defense could be expected to object strenuously to separate executive agency status for NSA and NRO, which are now within Defense.

(3) Major legislative actions would be required.

(4) The necessary bureaucratic changes would have a major, if only temporary, unsettling impact within the Intelligence Community.

(5) Unless adequate coordination machinery is provided, conflict could arise among the departmental secretaries and the senior intelligence officer over estimates prepared in the White House Staff and over what is national and what is departmental intelligence.

(6) The senior intelligence officer would require a sizeable separate staff.

(7) The national intelligence and warning production staff would be handicapped by lack of direct access to the analytic base.

THE SECOND OPTION

18. The senior intelligence officer would be attached to the Office of the President and serve as advisor to the NSA. The CIA would have a separate director. The senior intelligence officer would have responsibility for production of national estimates and for the warning function. Budgets of the CIA, NSA and NRO would require approval of the senior intelligence officer, but he would have no direct management authority over these organizations. NSA and NRO would remain, as now, within the Department of Defense structure. The senior intelligence officer would serve as Inspector General of the Community for the President.

a. PROs

(1) Some of the PROs for this option are the same as those for Option One:

(a) Increased access to the President by an intelligence spokesman.

(b) Separation of the senior intelligence officer from CIA to reduce any charges of favoritism.

(c) Responsibility for production of national estimates would still be in the White House Staff.

(2) Other PROs directly applicable to the second option are these:

(a) The senior intelligence officer would not be burdened with administrative management chores since he would not have management responsibility for CIA, NSA and NRO, but he still would hold a strong hand through his budget approval authority.

(b) Little legislative action would be required.

(c) Defense Department objectives might be less strong than in the case of Option One.

b. CONs

(1) The CONs for this option also include some of those applicable to Option One.

(a) Location of the senior intelligence officer within the White House Staff would increase the risk of politicization of the intelligence effort.

(b) There would be a major, even if only temporary, unsettling effect within the Intelligence Community.

(c) The senior intelligence officer's staff for production of substantive intelligence would be handicapped by lack of direct access to the analytic base.

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(d) Unless coordination mechanisms were particularly effective there would be risk of conflicts with departmental secretaries over the content of estimates produced by the senior intelligence officer and over determination as to what are national and what departmental intelligence activities.

(2) Other CONs directly applicable to Option Two are these:

(a) The line of authority of the senior intelligence officer would be limited to budgetary control.

(b) Budget controls might not be sufficient to eliminate "end runs" by agency heads.

(c) Detailed control by the senior intelligence officer of sensitive clandestine (CIA) activities would be weakened by bureaucratic barriers.

THE THIRD OPTION

19. The senior foreign intelligence officer would be, as now, the operating head of the CIA. The CIA would retain its present function, and existing Community coordination organs would continue. The CIA would chair Executive Committees--or EXCOMs--for the NSA and well as the NRO. These EXCOMs would have approval authority for programs and budgets of NSA and NRO, but the organizations would remain within the Department of Defense. Departmental intelligence activities, including tactical intelligence, would be solely departmental responsibilities. The DCI would have two deputies, with appropriate staffs, one for Community management and one for direct management of CIA.

a. PROs

(1) The present Community structure would be maintained and somewhat strengthened.

(2) The DCI would have more responsibility than now for the three major national programs--CIA, NSA and NRO--encompassing the major collection activities (SIGINT, imagery and human source).

(3) The concept of a national intelligence Community independent of departmental or White House pressures would be continued.

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(4) Conflicts between the DCI and departmental heads concerning departmental intelligence activities would be minimized.

(5) The DCI would continue to serve as spokesman before Congress for all national intelligence activities.

(6) Bureaucratic changes would be few, so turbulence would be minimal.

(7) No legislative action would be needed for organizational changes.

b. CONs

(1) The senior foreign intelligence officer would continue to be separated from the White House and would still be clearly subordinate to the Secretaries of State and Defense in the NSC structure.

(2) The DCI would have only partial authority for non-CIA budgets and programs.

(3) Problems of DCI and CIA access to sensitive departmental activities and communications would continue.

(4) Some ambiguities would continue concerning differentiation between national and departmental or tactical intelligence activities.

(5) Adoption of this "partial" option would mean missing an opportunity for a major reshuffling within the Intelligence Community which could markedly enhance the authority of the senior foreign intelligence officer and erase the bad image which the CIA has recently acquired.

THE FOURTH OPTION

20. The Intelligence Community concept would be abandoned. The DCI would have no operating responsibilities other than as head of the CIA. No consolidated Intelligence Community budget recommendations would be prepared. State, Defense and CIA would separately support intelligence needs of policy levels of the Government. Some agency and departmental functions could be redistributed. (An example would be transfer of CIA responsibilities for collection and analysis of technical intelligence to the Defense Department.)

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a. PROs

(1) Visibility of CIA would be reduced, which could assist continuation of clandestine activities.

(2) Renaming of CIA and reduction in the scope of its responsibilities could enhance a "fresh start."

(3) The CIA service and support structure could be reduced somewhat.

(4) Specialized activities, such as technical intelligence, could be concentrated in a single department.

(5) Reduction in the analytical role of CIA could facilitate creation of an intelligence analytic staff in the NSC structure to produce national intelligence.

b. CONs

(1) Resource constraints and increasing dependence on technology in intelligence activities emphasizes the need for greater centralization of intelligence management, not abandonment of a Community concept.

(2) The DCI would not be able to provide service to the Congress commensurate with what he now does.

(3) Coordination of national intelligence estimates and other national intelligence activities would be much more difficult.

(4) Independence of intelligence advice and assessments to the President and the NSC would be much reduced. Parochial views could well replace a broad interdisciplinary approach.

(5) The CIA would lose much of its present flexibility in support to the Government as a whole.

(6) Bureaucratic upheaval costs would be high.

(7) CIA would experience a major loss of cohesion and lowering of morale.

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21. The foregoing discussion of basic options and their pros and cons represents only my personal views.

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22. Obviously, there are many variations within each of these options. And others may think of additional pros and cons.

23. The Administration has not yet developed a formal position, and I do not wish to express any personal preference in advance of the Administration decision.

24. I trust, however, that I have provided you with food for thought which will be useful in the followon discussions which you hold among yourselves.

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CONGRESSIONAL OVERSIGHT

1. Problem.

Assuming that Congress will adjust the congressional oversight status quo for the Central Intelligence Agency and/or the Intelligence Community, identify the key issues on which Administration influence should be brought to bear.

2. Discussion

While the need for some kind of change in congressional oversight is self-evident, there also are some sound reasons why the Executive should not become strongly, publicly assertive on the need for change.

a. In principle it is up to Congress to put its house in order. The Executive Branch should be alert to questions of executive versus legislative prerogatives, i.e., "oversight" and product receipt versus the basic executive character of intelligence.

b. Practically and politically six committees of Congress are now seized with explicit jurisdiction over the CIA alone. If the adjustment in oversight is extended to the Intelligence community at large, beyond CIA and Defense agencies, the number of

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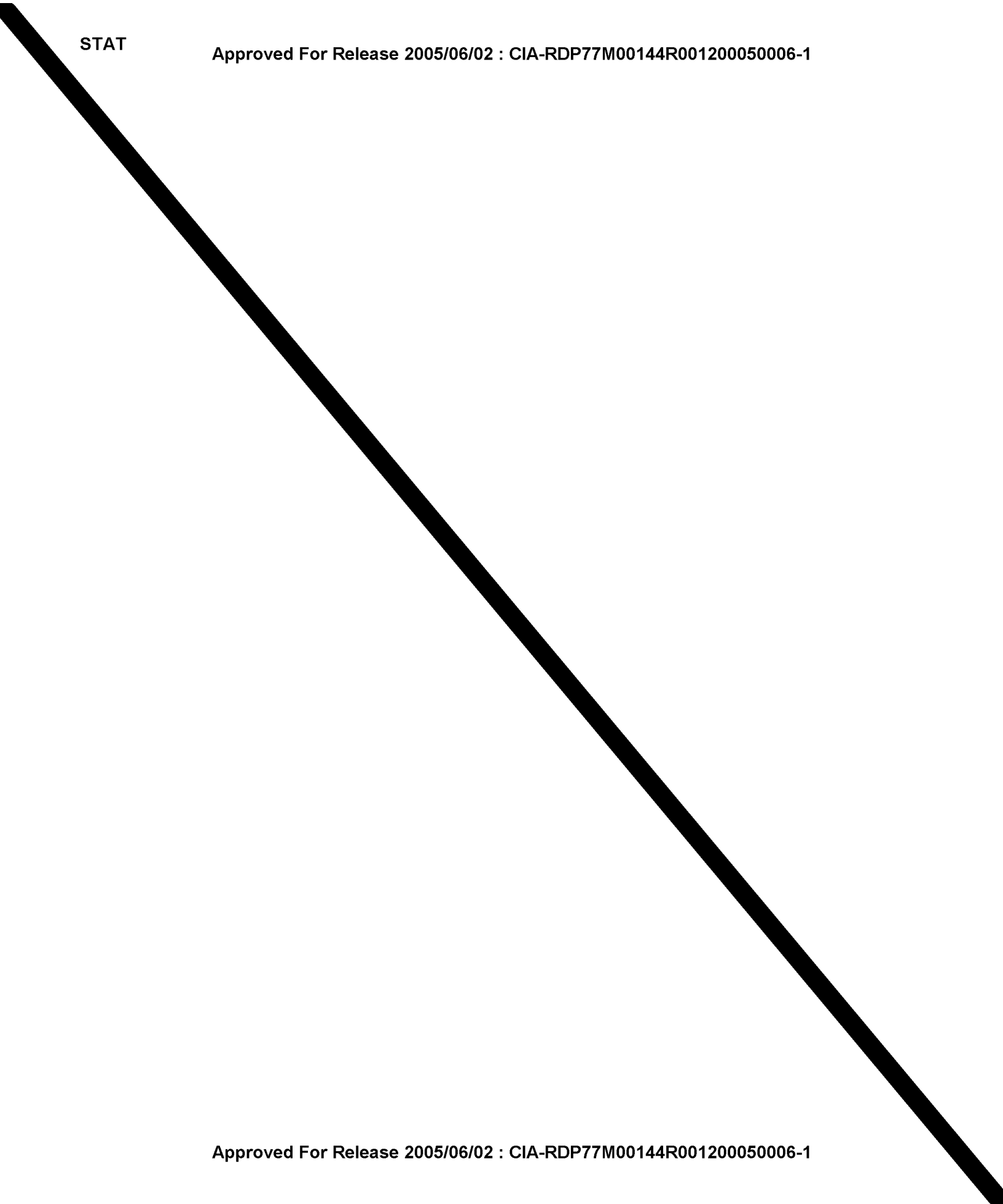

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committees exercising extant jurisdiction multiplies enormously. Any adjustment in the oversight will directly impact on the status quo and the Executive is wise to distance itself from the resulting jockeying arising out of jurisdictional disputes.

c. Active Executive Branch support for adjustment in oversight, to the extent that a loss of extant jurisdiction is involved, could affect the ability of the key members of these status quo committees to work out suitable accommodations for themselves and will be resented on that basis.

3. Principles and Considerations to Guide Executive Branch Action

a. Stability - Any change should provide sufficient stability to minimize turnover of membership. Stable membership will assure sufficient long-term exposure to intelligence problems enabling the members to acquire a basis for informed judgments. It also reduces the numbers of individuals exposed to sensitive operational information. In the context of a joint committee, these

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considerations would argue for membership to be composed of the chairman and ranking minority member of the several committees now exercising full or substantial legislative oversight, e.g., Armed Services, Appropriations, Foreign Affairs and possibly Government Operations. Such a make up would also tend to militate against jurisdictional conflicts with existing committees which in turn could prolong an unstable and undesirable situation on the Hill permitting numerous committees to successfully assert jurisdiction, leading to further proliferation of sensitive information and undermining intelligence's capability to do its job.

b. Exclusivity -- While the Executive Branch must recognize the authority and responsibility of the Congress to review and study on a continuing basis the application, administration, execution and effectiveness of law applying to the Central Intelligence Agency and the Intelligence Community, to the extent that the data base, which must be made available for that review and study, is in the sensitive area of intelligence sources and methods it is imperative that the oversight structure in Congress be provided exclusive jurisdiction. This imposes an added

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responsibility on that committee structure because not only must they be concerned with the CIA and Intelligence Community charter, but they must also act as surrogates on a broader spectrum of interests for other committees whose jurisdictional interst may somehow be indirectly but substantially affected, i.e., security exchange, banking and currency, Internal Revenue, etc. Carrying this surrogate responsibility requires trust between the membership of the Committee structure and the rest of the Congress. The Executive Branch's principal interest in exclusivity is to assure a secure environment for sensitive matters, as it relates to the success of ongoing activities, and to regain whatever credibility we have lost with cooperative governments, organizations, and individuals on the United States Government's capability to protect against violating their confidences with us. Six committees of Congress, which in the case of covert actions, are exercising oversight under Section 662 of the Foreign Assistance Act amendments of 1974, unnecessarily widening the audience and increasing the risk of disclosure. A joint committee, representing the interests of both Houses, would be ideal, but prerogatives of independence and pride may stand between the two Houses agreeing on such a structure.

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c. Security -- The absence of sound procedures and failure to come to grips with the need to establish rules governing responsible handling of classified information in the Congress has been demonstrated to the Congress as a result of incidents in both Houses. There have been some proposals to close the gap but it is doubtful that Congress will accomplish any meaningful action at its own initiative and certainly not by the time any new oversight structure comes into being. Security is a very controversial area for the Executive to push with Congress because the prerogatives of Congress, as they see it, is being offended and because the Executive's classification is in generally ill repute on the Hill. However, the Executive Branch has a sound constitutional basis for being assertive in this area. It must present its interest as narrow and as precise as possible to avoid the trigger words, "classified", "national security," etc., the Executive position must be embraced with the words, "of protecting confidences and capabilities of cooperating sources and covert collection systems." The Executive objective at a minimum should be:

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1. That such information be limited to the membership and appropriate staff of the exclusive oversight structure;

2. That such information is not subject to publication by the committee structure at its sole initiative. Any one of a number of formulas of prior consultation providing an opportunity for the eventual assertion of executive privilege would seem sufficient.

3. An effective criminal deterrent, much like the Agency proposed legislation to protect against the unauthorized disclosure of sensitive intelligence sources and methods, should be enacted as part of strengthening congressional oversight. The quid pro quo of obtaining authorized access to truly sensitive intelligence sources and methods carries with it a special responsibility, the violation of which involves a sufficient "public interest" to support criminal punishment. The Joint Committee on Atomic Energy is often cited on the Hill as the model of a congressional committee which can keep good secrets secret. What must not be overlooked is that the legislation

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establishing that Committee also enacted the Restricted Data statute which provides the type of criminal deterent in the Agency's draft legislation. Such legislation must be drawn with due regard for constitutional requirements and without interfering with the reporting of information or abuses to appropriate congressional or executive authorities. It also should not apply to any class of people beyond those who obtain authorized access to the sensitive information as a result of a privity of relationship to the Government, thus completely avoiding any possible conflict with first amendment rights. Clearly, legislation on a Joint Committee on Intelligence provides an opportunity for closing a serious gap in the criminal laws of the United States.

4. "Fully and Currently Informed"

Any new congressional oversight structure, if it is to be in harmony with the previous principles, must have access to information if it is to be in a position to assure its colleagues, the Nation and meet its own responsibility for watchfulness. In proposing that this oversight activity be conducted for the main part outside of the public domain, the

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responsibility for digging into matters deeply is more prevelant than it would be if the normal mechanism, press, interest groups, other committees of Congress, etc., were not blocked from access. At a minimum this imposes a positive responsibility and duty on the agency(ies) affected to be particularly sensitive to the position in which the committee and its members find themselves and to volunteer and report those things which are not available to the leavening of outside groups but of interest to them. On the other hand, there is a danger of leaning so far towards a congressional surveillance concept that the committees assume Executive responsibility. From a practical standpoint, a committee "fully and currently informed," of everything the CIA or Intelligence Community is doing, would require an enormous staff. More importantly, there are aspects of CIA's work performed for the President under constitutional responsibilities he does not share with the Congress, matters which are properly subject to the exercise of Executive Privilege. Therefore, to apply the "fully and currently informed" concept in extremis, would inevitably lead to a conflict between the constitutional needs of the President and congressional "watchfulness." It would appear in the best interest of both the Executive and the Congress that any new oversight structure start off on a basis with which the committee structure has the capacity to comply and would not raise separation of

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of power problems. "Fully and currently informed" represents an assertion of the maximum of congressional power (of dubious constitutionality) but it is clear that if the Congress is to back off of that concept, the Executive must be prepared to make a number of concessions beyond normal Executive Branch congressional committee relationship if the new structure is to work.

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Question XIII, "How do we get sources and methods protective legislation passed?"

A. The Agency must seek every opportunity available to win support of prominent Members of Congress for this proposal. Particularly valuable would be the endorsement of Members of Congress who have been critical of the Agency in the past, and who have a strong record for advocating the protection of the constitutional rights of American citizens. Within the next few months at least three opportunities are present. Both the House and Senate Select Committees will be issuing reports on their findings and their recommendations for changes in the Agency's legislative charter. Given the ideological make-up of these two Committees and the image of some Members of the Committee as staunch critics of the way intelligence has been conducted in the past, endorsement by these groups would greatly increase the chance for passage of the legislation.

The Senate Committee on Government Operations will be holding hearings on congressional oversight of CIA in December. Discussions of the postulated Joint Committee on Intelligence inevitably involve the example of the Joint Committee on Atomic Energy (JCAE). Our testimony during the hearings should strongly suggest that one reason for the success of this Committee in maintaining the secrecy of its information is the accompanying stiff criminal statute prohibiting disclosure of Restricted Data. We should make the point that a joint committee on intelligence cannot hope to equal the JCAE's record without a new criminal statute, and we should point out that Congress' image as a responsible body will be sadly tarnished by frequent disclosure from a joint intelligence committee. The Government Operations Committee will likely feel it does not have the jurisdiction to report a criminal statute as part of its bill for altered congressional oversight. However, their recommendation that the appropriate committee report such legislation would significantly aid the chances for passage.

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B. The chances for passage of the legislation in its present form remain guarded even if we succeed in winning important endorsements. Two major criticisms against the proposal have surfaced. One is that it is the equivalent of the British Official Secrets Act. Hopefully this objection can be overcome by an educational campaign pointing out the substantial differences between this proposal and the Official Secrets Act. The second often-heard objection is that the bill is intended to, and in fact would, prevent and punish the disclosure of illegal or improper Agency activities. Senator Mondale emphasized this in a June 26 Senate floor speech concerning the recommendations of the Rockefeller Commission. He concurred with many of the recommendations, but he heatedly attacked the Commission's endorsement of the sources and methods legislation. Mondale said, "The irony of this recommendation is that it would probably in the future prevent the public from knowing about transgressions and violations of the law of the kind we are now investigating here before the Senate Select Committee on Intelligence ... To reveal the spying on Americans, the opening of their mail, the bugging of their phones, or plots to assassinate foreign leaders all could put you in jail ... How much of the information in the [Rockefeller Commission] Report, I wonder, was secret or top secret only a few months ago. Without public disclosure, most of the abuses documented in the report would never have been corrected. Yet this law proposed by the Commission could help insure that public scrutiny would never happen again."

Senator Mondale's point is invalid, but must be met head-on. If this law were in effect and the Agency was still conducting its mail intercept program, an employee could not be prosecuted without the concurrence of the Attorney General, and the bill does not operate against disclosures to appropriate committees of Congress.

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We must, however, convince the Congress and the public that the legislation cannot be used to cover up illegal or improper activities. Although there are ample precautions in the bill involving the Attorney General and Congress, it may be helpful to add to the bill a provision which provides that an employee who in good faith believes an intelligence activity of the CIA (amounting to an intelligence source or method) is illegal or beyond the charter of the Agency, should exhaust all internal remedies available to him for a review of this matter. If he is not satisfied with the internal determination, the employee may, in a secure manner, report his suspicions to members or designated staff members of the President's Foreign Intelligence Advisory Board or the committees of Congress exercising legislative oversight. Such a provision would provide the employee additional opportunities to obtain external review of the activity, and yet would not jeopardize the intelligence source or method involved.

C. The campaign to win supporters with the intelligence sources and methods proposal has been severely handicapped by the lack of a tangible example of the kinds of problems the Agency faces in this regard, and the impotence of present safeguards. The phrase "intelligence sources and methods" is itself very vague and it is difficult for the Congress, the press, and the general public to grasp what is really at stake. The best

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example (hopefully) the Agency will ever have is former Agency employee Philip B. F. Agee. The fact that this former Agency employee could gain access to the names of foreigners who risked their lives by cooperating with CIA, and a few years after leaving the Agency and the country publish a list of every Agency employee he met and every cooperating foreigner he was aware of, and not be prosecuted, is truly unbelievable. The fact that he openly acknowledges the assistance of the Cuban intelligence service makes the lack of prosecution even more ludicrous. That Agee identifies himself as a "revolutionary socialist" (the same phrase Fidel Castro has used in describing himself) should convince the American people of his motives.

The inadequacy of the present espionage law as a deterrent to disclosure could be dramatized by using Agee as an example. We could stress that these laws were written for the "traditional" defector, one who is paid $50,000 by a foreign intelligence service and communicates his information solely and directly to that intelligence service. The law cannot deal with the "modern" defector, one who chooses to just as effectively devastate this c country's intelligence activities by publishing his knowledge in a book, collect $250,000 in royalties, and become a cause celebre in certain circles. Up to this time, the Agency has been reluctant to openly attack Agee, apparently because it does not want to give credibility or publicity to his book, and it feels there is some advantage in keeping him guessing regarding U.S. Government's plans to prosecute him. The decision must be made whether these benefits might not be exceeded by the boost that brandishing his case would give to helping insure that no one else gets away with what he has done.

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